

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Rural LECs' Application for Review	)	CC Docket No. 94-129
	)	CG Docket No. 02-278
Petition for Declaratory Ruling with Respect to	)	
Obligation of Local Exchange Carriers to	)	
Execute Primary Interexchange Carrier Change	)	
Requests with Incorrect Subscriber Information	)	

**OPPOSITION OF SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation, pursuant to the Public Notice released on December 2, 2005 (DA 05-3131), hereby respectfully submits its opposition to the July 8, 2005 Application for Review filed by 38 rural LECs<sup>1</sup> in the above-captioned proceedings. In their Application for Review, the Rural LECs request that the Commission review a decision by the Consumer and Governmental Affairs Bureau<sup>2</sup> (CGB) denying the Rural LECs' Petition for Declaratory Ruling. CGB had found that the Rural LECs' practice of

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<sup>1</sup> 3 Rivers Tel. Cooperative, Armstrong Tel. Co. Maryland, Armstrong Tel. Co. NY, Armstrong Tel. Co. North, Armstrong Tel. Co. Northern Division, Armstrong Tel. Co. PA, Armstrong Tel. Co. WV, Bruce Tel. Co., Calaveras Tel Co., Cascade Utilities, Central Montana Tel. Co., Chibardun Tel. Cooperative, Chickasaw Tel. Co., Citizens Tel. Co. of Higginsville, Clay County Rural Tel. Cooperative, Concord Tel. Co., CTC Telecom, Darien Tel. Co., DTC Communications, Egyptian Tel. Cooperative, Hardy Tel. Co., Lackawaxen Telecommunications Services, Lockhart Tel. Co., Loretto Tel. Co., Mid-Century Tel. Co., Nicholville Tel. Co., North Central Tel. Cooperative, North East Nebraska Tel. Co., North-Eastern PA Tel. Co., Peoples Tel. Co., Poka Lambro Tel. Cooperative, Public Service Tel. Co., Siskiyou Tel. Co., Smart City Telecom, Triangle Tel. Cooperative Assn., United Telephone Co., Volcano Tel. Co., and Washington County Rural Tel. Cooperative (collectively, "Rural LECs").

<sup>2</sup> *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, 20 FCC Rcd 10599 (2005) ("CGB Declaratory Ruling").

rejecting PIC (primary interexchange carrier) change requests where the customer name does not match the LECs' internal records constitutes a violation of Section 64.1120(a) of the Commission's rules, which prohibits an executing carrier from verifying the submission of a change request by a submitting carrier or causing an unreasonable delay in the execution of a change. The CGB's decision in that proceeding was sound and should be upheld, and the Rural LECs have not provided any new information which would justify a different decision. Therefore, their Application for Review should be denied.

The Rural LECs raise several points which they claim justify grant of their Application for Review. As discussed briefly below, these points are inadequately supported or are otherwise without merit.

First, the Rural LECs state that the *CGB Declaratory Ruling* should be overturned because that ruling "places IXCs' interest in convenient PIC changes over the interests of consumers in not being slammed" and will "encourag[e] slamming" (Application for Review, p. 2). This characterization is completely unfounded. In fact, the CGB's decision balances two sometimes conflicting consumer imperatives – to allow consumers to make PIC changes to their accounts easily and expeditiously, while protecting against unauthorized changes to their accounts. The public interest imperative here is prompt and easy implementation of consumer wishes, not to provide some sort of regulatory relief for IXCs. Nor is there any reason to assume that the *CGB Declaratory Ruling* will encourage or somehow make it easier for IXCs to engage in unauthorized conversions. Slamming certainly does occur, but constitutes only a small fraction of the total number of PIC changes that occur every year, and strict verification and liability rules

implemented by the Commission have “taken the profit out of slamming.” In light of the slamming protections currently in place, the CGB was entirely correct to ensure that consumers who genuinely do wish to make a PIC change are able to do so conveniently and without undue re-verification or other interference from the executing carrier. The Rural LECs have offered no hard data to support their allegation of increased slamming as the result of the *CBG Declaratory Ruling* (e.g., the volume and percentage of PIC change requests they have rejected because of subscriber name mismatches, or the number and percentage of slamming complaints, before and after release of the *CGB Declaratory Ruling*).

Second, the Rural LECs state that they have an obligation to their subscribers “not to make changes in their subscribers’ accounts without prior indication from the subscriber that the requestor was so authorized” (Application for Review, p. 4). Although Rural LECs do not indicate how many of their customers actually do advise them pro-actively of who may make changes to the account, in Sprint Nextel’s experience, very few consumers actually contact their service provider to give them a list of people who are “authorized” to make changes to an account (or to update that list). Since many PIC changes are made at the request of a party who is not the LEC subscriber of record, with the full authorization of the subscriber of record (for example, the spouse of the subscriber, in instances in which the spouse is not listed as the account holder), the Rural LECs’ concerns about slamming would appear to be overstated here. Absent hard data to demonstrate that slamming due to subscriber name mismatches has been exacerbated by the *CGB Declaratory Ruling*, the Rural LECs’ Application for Review should be denied.

Rather than relying upon consumers to provide them with a list of individuals specifically authorized to PIC changes, the Rural LECs' concern about unauthorized PIC conversions would be better addressed by promoting the use of a PIC freeze. As the CGB noted in the *Declaratory Ruling*,<sup>3</sup> the PIC freeze does not present the kind of legal infirmities associated with the course of action being urged by the Rural LECs in their Application for Review and prior Petition for Declaratory Ruling. Nor is the Rural LECs' concern well-founded that a PIC freeze offers "no real protection" because an "unauthorized person is...able to lift a PIC freeze and the LEC must comply" (Application for Review, p. 8). It seems highly unlikely that an unauthorized person would go to the time and effort of contacting the LEC to lift the freeze, and would also have the requisite verification information (*e.g.*, the subscriber's date of birth or social security number) to authorize the lifting of the freeze.

Third, the Rural LECs state that "[t]here are no decisions where a Rural LEC's rejection of a PIC change where the account information was incorrect was found to benefit itself" (Application for Review, p. 6). However, this type of "decision" could be made only in the context of a specific incident, and Sprint Nextel is unaware of any pending complaint proceeding in which this specific issue has been raised for adjudication. In any event, Sprint Nextel is less concerned about the potential for self-serving "anti-competitive behavior" on the part of the Rural LECs (*id.*) than about the inconvenience and delays imposed upon end user customers that inevitably would result from endorsement of the Rural LECs' policies.

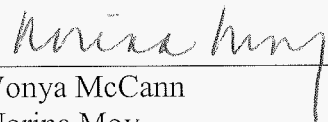
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<sup>3</sup> 20 FCC Rcd 10602 (para. 10).

The Rural LECs have presented no new information which demonstrates that the *CGB Declaratory Ruling* was flawed, or that would otherwise justify grant of their Application for Review. Therefore, the Commission should deny this application and reaffirm that executing carriers may not “restrict consumer control by eliminating the consumer’s ability to designate someone as authorized to change telecommunications service without first contacting the local carrier.”<sup>4</sup>

Respectfully submitted,

SPRINT NEXTEL CORPORATION

A handwritten signature in dark ink, appearing to read "Vonya McCann", written over a horizontal line.

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February 13, 2006

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<sup>4</sup> 20 FCC Rcd at 10601 (para. 7).

## CERTIFICATE OF SERVICE

I hereby certify that copies of the **OPPOSITION OF SPRINT NEXTEL CORPORATION** were sent by e-mail or First Class Mail, postage prepaid on this the 13<sup>th</sup> day of February 2006 to the parties listed below.

  
Linda Simmons

February 13, 2006

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